

HOUSE BILL 2399

By Weaver

AN ACT to amend Chapter 120 of the Private Acts of 1953; as amended by Chapter 240 of the Private Acts of 1953; Chapter 93 of the Private Acts of 1963; Chapter 6 of the Private Acts of 1971; Chapter 365 of the Private Acts of 1972; Chapter 21 of the Private Acts of 1985; Chapter 119 of the Private Acts of 1989; Chapter 219 of the Private Acts of 1992 and Chapter 98 of the Private Acts of 2008; and any other acts amendatory thereto, relative to the charter of the City of Red Boiling Springs

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 120 of the Private Acts of 1953; as amended by Chapter 240 of the Private Acts of 1953; Chapter 93 of the Private Acts of 1963; Chapter 6 of the Private Acts of 1971; Chapter 365 of the Private Acts of 1972; Chapter 21 of the Private Acts of 1985; Chapter 119 of the Private Acts of 1989; Chapter 219 of the Private Acts of 1992; Chapter 98 of the Private Acts of 2008; and any other acts amendatory thereto, is amended by deleting the chapter in its entirety and by substituting instead the following:

ARTICLE I - CORPORATE CAPACITY

Section A. Incorporation, name, and general powers.

The municipality of the City of Red Boiling Springs, in the County of Macon, and the inhabitants thereof, are hereby constituted a body politic and corporate by the style and name of "City of Red Boiling Springs" and shall have perpetual succession by the corporate name; may sue and be sued, plead and be impleaded; grant, receive, purchase and hold real, mixed and personal property; may sell, lease, or dispose of the same for benefit of said municipality; and may do all other acts authorized by municipal, state and federal law as the stated and implied powers of a municipality; and may have and use a corporate seal and change it at its pleasure.

Section B. Boundaries.

Beginning at the point where the properties of O.P. Davis, Johnnie Bowman and the Cloyd Hotel meet; thence westerly to the top of Highland Park Hill; thence northwesterly to a point one thousand feet (1000') south of the west end of the bridge over Salt Lick Creek near the ax handle factory; thence Southwesterly to a point five hundred feet (500') east of the intersection of State Highway No. 52 with a dirt road, immediately south of Hobart P. Clark property, and on the south right of way of said dirt road; thence westerly along the south right of way of said dirt road to a point one hundred feet (100') east of intersection on said dirt road with State Highway No. 52; thence along the line following, parallel to, and one hundred feet (100') south of, the southerly right of way of State Highway 52 to point in Robert Knight's property one hundred feet (100') west of the west right of way of State Highway No. 56; thence northerly to the southwest corner of Estes Browning's property; thence northerly to the southwest corner of the Red Boiling Springs School property; thence along the west boundary of the School property to the northwest corner thereof; thence northerly, following the west boundary of the school property to the northwest corner thereof; thence northerly, following the west boundary of the School property to the northwest corner of said property; thence along a northerly extension of the west boundary line of the W.S. Kemp property one hundred feet (100') to a point on the east side of the lake road; thence southeasterly to the east gate post at the entrance to the McClellan Lumber Company on Bennett Hill on State Highway No. 52; thence southeasterly to a point on the east right of way of the cemetery road due east from the northeast corner of the cemetery property; thence following the east right of way of the cemetery road in a southerly direction to the intersection of the cemetery road and the north right of way of Witcher Road; thence easterly along the north right of way of Witcher Road to a point due north of the northeast corner of the Kenneth Witcher property; thence due south to the northeast corner of the Kenneth Witcher property; thence to a point one thousand feet (1000') due southeast from the northeast corner of the Witcher property; thence to the point of beginning; providing,

however, that there shall be excluded from the area enclosed by the above-described boundaries the spring located at the point where the properties of McClellan, Warner and McClellan, Charles D. McClellan, Palace Hotel, Red Boiling Springs Realty and Water Company, and Mrs. Louise M. Murray join, and there shall also be excluded the area within a fifty feet (50') radius measured from the center of the springs. The boundaries of the city are fixed by Ordinance numbers 50, 88, 118, 174, 207, 215, 222, and 04-9 and as extended and contracted by ordinances of the city passed under the general law of the state governing annexations and contractions; and as further amended pursuant to the general laws of the State of Tennessee, and any subsequent annexations or detachments of territory made pursuant to law. Copies of ordinances are available at the office of the city recorder.

ARTICLE II - POWERS ENUMERATED

Section A. General Powers.

The Council of the City of Red Boiling Springs shall have the management and control of the city finances and all property of the corporation and shall have power to:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or non-negotiable interest bearing or non-interest bearing bonds, in accordance with the Local Government Public Obligations Act of 1986, warrants, promissory notes, orders, or other instruments of the municipality in accordance with state law;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of state law, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust; and administer trusts for the public benefit;

(11) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or telecommunications systems or any estate or interest therein, or any other utility or service to the municipality, its inhabitants, or any part thereof, and, further, may issue debt for these purposes under the Local Government Public Obligations Act, codified at Tennessee Code Annotated, Title 9, Chapter 21, or other pertinent state law. For purposes of this item and other items in this section, "telecommunications system" means a system for transmitting, amplifying and receiving voice, data or video signals over a network of wire, cable, radio channels or other means or device for accomplishing such redistribution to members of the public who subscribe to such service;

(12) Grant to any person, firm, association or corporation, including the municipality, franchises for public utilities and public services and telecommunications systems to be furnished inside or outside the municipality and the inhabitants therein. The power to grant franchises shall embrace the power to grant exclusive franchises, except where prohibited by law.

Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25)

years or less, but not longer. The council may prescribe in each grant of a franchise, the rates, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits thereafter may be enlarged; and to the existing streets, alleys and thoroughfares that thereafter may be opened. Any such franchise shall conform to federal and state law;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services and telecommunications systems to be furnished to the municipality and inhabitants therein and other areas. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The council may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits thereafter may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened; provided, however, that with regard to telecommunications services and telecommunications services providers, this paragraph shall confer no more and no less power than is conferred by the general law of the State of Tennessee or federal law;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities and telecommunications systems, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services.

Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13); provided, however, that with regard to telecommunications services and telecommunications services providers, this paragraph shall confer no more and no less power than is conferred by the general law of the State of Tennessee or federal law;

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property under the provisions of general condemnation laws of the state;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining, or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by the special assessment laws of the state and all pertinent state law;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, landscaping, removing from the sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the council;

(18) Acquire, purchase, provide for, construct, regulate and maintain

and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements inside and outside the municipality;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or to license and regulate their collection and disposal, inside and outside the municipality, and the cost of such collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license fee or tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Regulate the location, bulk, occupancy, area, lot, height, construction and materials of all buildings and structures in accordance with general law, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(25) Provide and maintain charitable, educational, recreative, curative, day care, corrective, detentive, or penal institutions, departments, functions,

facilities, instrumentalities, conveniences and services;

(26) Purchase or construct, maintain and establish a correctional facility for the confinement and detention of persons who violate laws within the corporate limits of the city, or to contract with the county to keep such persons in the correctional facility of the county;

(27)

(a) Enforce any ordinance, rule or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction;

(b) No fine may exceed fifty dollars (\$50.00) or the maximum allowable under general law, whichever is greater, for violation of municipal ordinances, for any one (1) violation;

(28) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or euthanize them;

(29) Call elections as herein provided;

(30) By ordinance, assess, impose, levy and collect impact fees from new land developments within the municipal limits and such other territory as authorized in accordance with the provisions of the County Powers Relief Act, provided that the impact fees are limited to the reasonably anticipated costs of public improvements generated by such developments, and provided that the impact fee system and formula is prescribed by ordinance;

(31) Plan for the orderly development of the community, including economic, physical, educational and cultural aspects, and institute programs to effectuate such plans;

(32) Create and empower boards, commissions, committees and agencies to facilitate the orderly and efficient implementation of governmental tasks, regulations, and policies; and

(33) Exercise and have all other powers, functions, rights, privileges and

immunities granted by general law or necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the city and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this charter as fully and completely as if such powers were fully enumerated herein. No enumeration of particular powers in this charter shall be held to be exclusive of others nor restrictive of general words and phrases granting powers, but shall be held in addition to such powers unless expressly prohibited to cities by the constitution or general laws of the state.

ARTICLE III – ELECTIONS

Section A. Date of general city election.

A general city election shall be held on the Forth Saturday of April beginning in 2011 and every two (2) years thereafter. At the 2011 election the mayor shall be elected to serve for two (2) years and three (3) council members in 2011 shall be elected to serve four (4) year terms. Thereafter every two (2) years, the mayor shall be elected to serve two (2) year terms. In 2013, three (3) council members shall be elected to serve four (4) year terms. Thereafter, three (3) council members shall be elected to serve four (4) year terms. The terms of office of the mayor and council members shall begin at 12:01 pm on the second Monday next following their election, and shall serve until their successors have been elected and qualified.

Section B. General election laws apply.

All elections shall be conducted by the Election Commission of Macon County in accordance with the general election laws of the state and this charter.

Section C. Voter qualification requirements.

Any person who has been a resident of the City of Red Boiling Springs as determined by the general election laws of the state, or any nonresident who has owned taxable real property in the city for six (6) months immediately preceding an election, and whose name appears on the voting list of qualified electors eligible to vote in the State of Tennessee Legislative District which encompasses the City of Red Boiling Springs, and

has registered, shall be entitled to vote in city elections. Nonresident property owners shall be entitled to no more than two votes per parcel of property. These same qualifications shall apply to other city elections and referenda unless otherwise provided by law.

ARTICLE IV - COUNCIL

Section A. Composition and term of office.

The governing body of the City of Red Boiling Springs shall consist of the mayor and six (6) council members which shall be known as the council. The mayor and each council member shall be elected at-large and the term of office for the mayor shall be two (2) years, and each council member shall be four (4) years. They shall serve until their successors have been elected and duly qualified, and their terms shall be staggered.

Section B. Election of vice-mayor.

The council, at the first regular meeting following the general municipal election, shall elect one (1) of their number vice-mayor to carry out the duties of mayor in his absence, for a term of two (2) years.

Section C. Qualifications for office.

Council members shall be qualified voters of the city and shall hold no other elected public office except as a notary public or member of the national guard or military reserve. No person shall be eligible to the office of mayor or council member unless he shall be at least twenty-one (21) years of age and have been for at least one (1) year next preceding his election a resident of the City of Red Boiling Springs. Candidates shall be permitted to file a nominating petition for only one (1) office in any general city election. No person shall become mayor or council member who has been convicted of a crime involving moral turpitude. A mayor or a council member who files a nominating petition for mayor or a commissioner position other than his own and whose own position is not up for re-election must resign his current position as mayor or commissioner at least thirty (30) days prior to the filing deadline for nominating petitions for the next general city election.

Section D. Salaries.

The annual salary for the mayor shall be not less than five thousand two hundred dollars (\$5,200) paid in no more than monthly payments. The council may, by ordinance, set the annual salary and fringe benefits of the council, but any ordinance establishing, increasing, or decreasing such salary shall be in accordance with Article XI, Section 9 of the Tennessee State Constitution. The salary of the council members shall be no less than five hundred dollars (\$500) annual salary paid in no more than monthly installments.

The mayor and council shall be entitled to reimbursement for the expenses they incur in the performance of the duties of their offices, under the provisions of the adopted travel and reimbursement ordinance or resolution approved by the council.

Section E. Duties of the mayor.

The mayor:

(1) Shall be the chief elected officer of the municipality and shall preside at regular and special meetings of the council at which he is present and, in his absence, the vice-mayor shall preside, and in the absence of both the mayor and the vice- mayor, the council shall designate one of their number to preside;

(2) Shall present the annual budget to the council;

(3) Shall communicate any information needed, and recommend measures deemed expedient, to the council;

(4) Shall make recommendations to the council for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the municipality;

(5) Shall keep the council fully advised as to the conditions and needs of the municipality;

(6) Shall report to the council the condition of all property, real and personal, owned by the municipality and recommend repairs or replacements as needed;

(7) Shall recommend to the council and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the municipality;

(8)

(A) May call special meetings of the council upon adequate notice to the council and adequate public notice;

(B) Shall state the matters to be considered at the special meeting and the action of the council shall be limited to those matters submitted;

(9) May countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party;

(10) Shall sign all ordinances and resolutions on their final passage;

(11) As a member of the council, may make motions and shall have a vote, but no veto, on all matters coming before the council;

(12) Shall make appointments to boards and commissions as authorized by law;

(13) Shall recommend appointments of city attorney; and city judge, for approval of the council;

(14) Shall serve as a non-voting ex-officio member of each board, commission, authority, and committee of the municipal government;

(15) Shall represent the city in matters before the General Assembly of the State of Tennessee and serve as the liaison to the state and federal government;

(16) Shall direct the activities of the city in the:

(A) Pursuit of state and federal grants;

(B) Support of proposed local, state or federal legislation deemed beneficial to the city;

(C) Opposition of proposed local, state or federal legislation which is deemed detrimental to the best interests of the city; and

(D) Efforts to expand and improve the economic base of the city;

and

(17) Shall be the official representative of the city at federal, state and county levels and shall be the ceremonial head of the city; and

(18) Shall perform such other duties as may be designated or required by the council, not inconsistent with other provisions of this charter.

Section F. Duties of the council.

The council shall have complete control over the affairs of the city pursuant to the provisions of this charter and may:

(1) Establish city departments, agencies, committees and boards, in addition to those created by this charter, and may prescribe the functions of all departments, agencies, committees and boards not inconsistent with this charter. Departments, agencies, committees and boards created by the council may be abolished or combined. To the extent permitted by law, those appointed to boards or committees may serve no more than twelve (12) consecutive years in the same appointed board or committee position;

(2) Approve appointments for the positions of city administrator, city judge, and city attorney, and upon the recommendation of the city administrator, approve the appointment of the city recorder;

(3) In the absence of the mayor and vice-mayor, elect a council member to act as presiding officer; and

(4) Two (2) or more council members may call a special meeting of the council upon adequate notice to the council and adequate public notice. The notice shall state the matters to be considered at the special meeting and the action of the council shall be limited to those matters submitted.

The members of the council and city recorder are officers of the city.

Section G. Vacancies.

Any vacancy in the council shall be filled by appointment made by the remaining members thereof, and the council members so appointed shall serve for the

remainder of the unexpired term, but any portion of an unexpired four-year term for a council member or mayor that remains beyond the next municipal election shall be filled by the voters at that election, if the vacancy occurs at least forty-five (45) days before the latest time for filing nominating petitions for candidates in that election. No more than two (2) vacancies shall be filled by appointment made by the council within a four-year period. In the event of any additional vacancy after two (2), the council shall call upon the Election Commission for Macon County to call a special election for the purpose of filling all vacancies. The council members elected at such special election shall hold office for the remainder of the unexpired term. These provisions regarding filling any additional vacancy after the first by a special election shall not apply to any additional vacancy in the council occurring less than one hundred eighty (180) days prior to any general city election. An additional vacancy occurring less than one hundred eighty (180) days prior to any general city election shall be filled by appointment made by the remaining members of the council, and the mayor or council members so appointed shall serve until a successor elected at the next general city election takes office.

In the event of the occurrence of any vacancy in the council which may be filled by appointment by the council, and such council remaining shall fail or neglect to fill such vacancy within forty-five (45) days of its occurrence, it shall be the duty of the Election Commission for Macon County, upon certification of such facts to them by any council member, to call a special election for the purpose of filling such vacancy, provided such certification be made to the Election Commission for Macon County within sufficient time to permit the holding and completion of such special election at least one hundred eighty (180) days prior to the next general municipal election.

Section H. Oath of office.

The council members, before entering upon their duties, shall each take and subscribe before and file with the recorder an oath or affirmation that they will support the Constitution of the United States and of the State of Tennessee and the charter and ordinances of the City of Red Boiling Springs, and that they will faithfully discharge

the duties of the office. Said oath shall be administered by the city judge, general session's judge, or judge of a court of record.

Section I. Removal of mayor or council members from office.

The mayor or any council member may be removed from office pursuant to the ouster provisions of general law found in Tennessee Code Annotated, Title 8, Chapter 47, upon conviction of a crime involving moral turpitude, for malfeasance in office, for willful neglect of their duties, for grave misconduct showing unfitness for public duty, or for permanent disability for which no reasonable accommodation can be made.

Section J. Time and place of meetings; special meetings; publishing agenda.

The council shall, by ordinance, fix the time and place at which the regular meetings of the council shall be held.

When such day falls on a legal holiday, the meeting shall be on the next following day unless otherwise prescribed by the council.

Whenever, in the opinion of the mayor, city administrator or of any two (2) council members, the welfare of the city demands it, the recorder shall call a special meeting of the council giving at least twelve (12) hours notice of such meeting.

Section K. Quorum, attendance, and recess.

A majority of the entire membership to which the council is entitled, excluding vacancies, shall constitute a quorum, but a smaller number may recess from day to day and may compel the attendance of the absentees in such manner and under such penalties as the council may provide. No recess shall be taken to a date beyond the next regular meeting; and any recessed meeting shall continue as a regular meeting throughout such recess.

Section L. Proceedings.

The council may determine the rules of its proceedings and shall follow Robert's Rules of Order. It may waive rules and procedures upon a unanimous vote of those present. It shall have power to subpoena witnesses and order the production of books and papers relating to any subject within its jurisdiction; to call upon the chief of police, or the chief's designee, to execute its process; and to arrest and punish by fine

any person refusing to obey such subpoena or order. No fine for any one violation (1) under this section shall exceed fifty dollars (\$50.00) or the maximum allowed by state law, whichever is greater. The presiding officer of the council or the chairman of any committee may administer oaths to witnesses. It shall keep minutes of its proceedings, and the vote on every question shall be entered thereon.

Section M. Ordinance procedure.

Every ordinance shall be considered and passed on two (2) different days, at regular, special or recessed meetings of the council. Passage shall require the affirmative vote of a majority of the entire membership to which the council is entitled, excluding vacancies. Each ordinance shall relate to a subject, which shall be generally expressed in a caption and material or substantial amendments may be made on final passage. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred.

Every ordinance upon final passage shall be signed by the presiding officer of the council and shall be numbered, copied in an ordinance book, and authenticated by the signature of the recorder, and filed and preserved in the city's records.

An emergency ordinance may be passed after being considered at one (1) meeting. The ordinance shall contain the statement that an emergency exists and shall specify the facts and reasons constituting such an emergency. The unanimous vote of those present shall be required to pass an emergency ordinance. No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance.

Section N. Legislative action which must be exercised by ordinance.

Except as otherwise provided by general law or this charter, legislative action of the council shall be by ordinance when granting, renewing or extending public franchises; creating, abolishing or combining departments or offices; exercising the police power to protect the public health, welfare and safety; levying taxes; adopting the budget; providing a fine or other penalty or establishing a rule or regulation for

violation of which a fine or other penalty is imposed; establishing rates to be charged for utility services; or amending or repealing an existing ordinance. Other actions may be accomplished by resolution or motion.

ARTICLE V - CITY RECORDER

Section A. Appointment, compensation and specific requirements, powers and duties of office.

The recorder shall be appointed by the city mayor subject to the approval of the council and may be appointed the head of the department of finance. The recorder shall receive compensation and fringe benefits in accordance with the city's compensation policies and give such bond to the city as may be provided by ordinance. The recorder shall, by his signature and the city seal, attest all instruments signed in the name of the city and all official acts of the mayor. The recorder shall have power to administer oaths.

Section B. Duties of the recorder.

(1) It shall be the duty of the recorder to be present at all meetings of the council, when possible, and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent form.

(2) The recorder shall have custody of and preserve, the city seal, the public records, original rolls of ordinances, ordinance books, minutes of the council, contracts, bonds, title deeds, certificates and papers, all official indemnity or security bonds except his own bond, which shall be in the custody of the mayor or city administrator, all other bonds, oaths and affirmations, and all other records, papers and documents not required by this charter or by ordinance to be deposited elsewhere, to be registered by numbers, dates and contents, and keep an accurate index thereof.

(3) The recorder shall provide, and, when required, certify copies of records, papers and documents in his office and charge such fees as may be required by ordinance.

(4) The recorder may be appointed the treasurer of the city; as such it shall be his duty to collect, receive and receipt for the taxes and all other revenues and bonds of the city, and the proceeds of its bond issues, and to disburse the same.

(5) The recorder shall also perform any other duties imposed upon him by this charter, by ordinance or resolution, or by the city administrator.

ARTICLE VI - CITY ATTORNEY

Section A. Qualifications.

The city attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

Section B. Appointment, duties, and compensation.

The city attorney shall be recommended for appointment by the mayor, subject to the approval of the council. The city attorney shall direct the management of all litigation in which the city is a party; represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers or employees are officially interested; attend all meetings of the council, when possible; advise the council, and committees or members thereof, the city administrator, and the heads of all departments and divisions as to all legal questions affecting the city's interests; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the city. The city attorney shall take such legal actions as the city administrator or the council may direct for the purpose of enforcement of laws, rules and regulations. The city attorney's compensation and fringe benefits shall be as fixed by the council and the city attorney shall serve at the will of the council.

ARTICLE VII - ADMINISTRATION

Section A. Conflict of interest prohibited.

It shall be unlawful for any member of the council of the city to enter into any contract, verbal or written, to work for or furnish labor or material to the city, except as provided by state law; and the council members are hereby prohibited from

allowing or paying money on any such contract for any such work, labor, or material, except as provided by state law.

Section B. Nepotism prohibited.

No member of the immediate family of the council may be hired by and begin employment with the city during their term of office and no member of the immediate family of the city administrator may be hired by and begin employment with the city during his or her employment with the city. The immediate family is defined as the employee's spouse, children, father, mother, brother, sister or the spouse or children of the above. This section shall not apply to present employees. No current employee shall be terminated from employment as a result of this section.

Section C. Prohibition against dual elected offices.

No member of the council shall serve in another elective county, state or federal office during their term nor shall they serve in any position of employment in the city.

Section D. Personnel rules; fringe benefits.

The council shall adopt personnel rules which, at a minimum, shall include but need not be limited to:

- (1) A job classification plan;
- (2) A pay plan; and
- (3) Attendance requirements and provisions for sick and vacation leave.

Section E. Officers, employees, etc., who handle money shall be bonded.

The mayor and every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with some surety company authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinance or this charter. All such bonds and sureties shall be subject to the approval of the council, and the council may provide for blanket bonds. The cost of all bonds shall be an expense of the city.

ARTICLE VIII - FINANCE

Section A. Fiscal year.

The fiscal year of the city shall begin on the first day of July and end on the last day of June, unless otherwise provided by ordinance.

Section B. Annual departmental budgets required.

The adoption of an annual budget for all departments shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

Section C. City mayor is required to prepare annual budget and explanatory message.

At least sixty (60) days before the beginning of the fiscal year, the city mayor shall prepare a budget for the ensuing fiscal year and an accompanying message. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as required by the state comptroller's office.

Section D. Budget adoption, and effect of adoption.

The budget shall be adopted by ordinance for the ensuing fiscal year before the end of the current fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein from the funds indicated. If the council fails to adopt the budget by the end of the fiscal year, the appropriations for the current fiscal year shall become the appropriations for the next fiscal year until the adoption of the new budget ordinance, except for funds appropriated for capital expenditures which shall lapse at the end of the current fiscal year.

Section E. Supplemental appropriations.

If, during the fiscal year, the city mayor certifies that there are available funds in excess of those previously appropriated, the council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.

Section F. Emergency appropriations.

Upon a declaration by the council that there exists a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations by ordinance. To the extent that there are no unappropriated available funds to meet such appropriations, the council is authorized to borrow funds sufficient

to meet such emergency by issuing negotiable capital outlay notes or other borrowing as authorized by state law.

Section G. Deficits.

If at any time during the fiscal year, it appears probable to the city administrator that the available funds will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may, by ordinance, reduce appropriations.

Section H. Transfer of unencumbered appropriations.

At any time during the fiscal year the city administrator may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency. Upon written request by the city administrator, the council may, by ordinance, amend the budget by transferring part or all of any unencumbered appropriation balance from one department, office, or agency to another.

Section I. Lapsing of appropriations.

Every appropriation shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered.

Section J. Incurrence and discharge of obligations.

No payment shall be made or obligation incurred unless there is an unexpended and unencumbered appropriation for that purpose. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, notes, acceptance of grants or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section K. Borrowing.

The council, for the sole purpose of meeting the necessary expenses within

appropriations, is authorized to borrow money in the amount not to exceed fifty percent (50%) of the anticipated revenues for the current fiscal year pursuant to the provisions of state law. Such revenue anticipation notes shall mature during the current fiscal year and shall be paid from budgeted revenues or pursuant to the provisions of state law.

Section L. Accounting records and audits.

There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. A yearly audit of the financial affairs of the city shall be performed by a qualified independent auditor selected by the council.

Section M. Competitive bidding and purchasing procedures.

The city mayor shall be responsible for all city purchasing, but he may delegate this duty to any subordinate appointed by him. Competitive prices for all purchases and public improvements shall be obtained whenever practicable and in accordance with regulations established by ordinance, and the purchases made from or the contract awarded to the lowest and most responsive bidder; preference may be given to local businesses in so far as such preference does not violate the United States Constitution or the Constitution of Tennessee. The city shall have the power to reject any and all bids. Public advertisement and sealed bids shall be required, unless otherwise provided by state law, in all transactions involving the expenditure of ten thousand dollars (\$10,000), or such larger amount as provided by state law, within one (1) fiscal year. Any exceptions to competitive bidding established by state law shall apply to purchases by the municipality, including but not limited to those exceptions set forth in Tennessee Code Annotated, Section 6-56-304. Purchasing and contract procedures not prescribed by this charter or other law may be established by ordinance.

Purchasing and bidding procedures may be established by ordinance, in accordance with state law.

ARTICLE IX – TAXATION

Section A. Assessment, levy and refunds.

All property within the city, not exempt by general law, shall be assessed for taxation upon the same principles established in regard to state and county taxation. Assessments made by the county tax assessor may be adopted by the city. The city recorder, with the concurrence of the city mayor, is authorized to settle and adjust with taxpayers all errors and double assessments of city taxes erroneously or illegally collected by the city and to direct the refunding of the same. Any claim for such refund of taxes alleged to have been erroneously or illegally paid shall be filed with the city recorder supported by proper proof within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to a refund and such claim shall be barred.

Section B. Due and delinquent dates; penalties and interest.

Property taxes shall be payable on and after October 1 in the year for which assessed and shall become delinquent on March 1 of the following year. The council, by ordinance, shall fix penalties and interest on delinquent taxes. The council may establish, by ordinance, discount procedures for early payment of taxes, which shall take effect in 2011.

Section C. Collection of delinquent taxes.

The council may provide, by ordinance, for the collection of delinquent taxes or may provide for such collection by the county trustee.

Section D. Statutory lien.

All municipal taxes on real and personal property in Red Boiling Springs, and all penalties and cost accruing thereon, are hereby declared to be a lien on such real estate from and after the last day of February after the year for which the same are assessed.

ARTICLE X - CITY COURT

Section A. City Judge-Jurisdiction-Appointment-Qualifications and Compensation-Elections.

(a)

(1) There shall be a city court presided over by a city judge recommended for appointment by the mayor, subject to the approval of the council, or elected as provided in subsection (c).

(2) The city judge shall have jurisdiction in and over all cases for the violation of, and all cases arising under, the laws and ordinances of the municipality.

(b)

(1) Where the city judge is appointed, the city judge shall have the qualifications and receive the compensation and fringe benefits the council may provide. Such compensation shall not be decreased during the sitting judge's appointment. He shall serve at the will of the council and may be removed from office by two-thirds (2/3) vote of the council. The city judge shall be an attorney licensed to practice in the State of Tennessee.

(2) In the long-term absence or disability of the city judge, the mayor may designate a qualified person to serve as city judge or may designate the general sessions court judge of the county or counties in which the municipality lies to be the acting city judge until one can be appointed by the council at the next regularly scheduled meeting of the council, or as otherwise provided by ordinance.

(c)

(1) The council may require, by ordinance passed by a two-thirds (2/3) majority vote, that the city judge meet the constitutional qualifications and be elected in the same manner as a judge of an inferior court. Constitutional provisions applicable to judges of inferior courts shall apply to the elected city judge.

(2) In accordance with the Municipal Court Reform Act of 2004, an elected city judge may be vested with concurrent jurisdiction and authority with courts of general sessions, as set forth in Tennessee Code Annotated, Title 40,

in all cases of the violation of the criminal laws of the State of Tennessee within the limits of the municipality.

(d) If a city judge is unable, temporarily, to preside over city court for any reason, then the city judge shall appoint an attorney or the general sessions judge of the county or counties within which the municipality lies to sit in the judge's place, if the general sessions judge agrees to serve in such capacity.

Section B. Duties and powers of city judge.

The city judge shall try all persons charged with violation of the ordinances of the city. He shall have the power to levy fines, penalties and forfeitures, not exceeding the maximum set by state law, for each offense and to impose such costs as the council may by ordinance provide, in accordance with the Municipal Court Reform Act of 2004, to issue all necessary process, to administer oaths, and to punish for contempt.

Section C. Imposition of bail, fines, costs, and sentences.

If the city judge has concurrent jurisdiction and authority with courts of general jurisdiction, the bail of persons arrested and awaiting trial and persons appealing the decision of the city judge shall be fixed by the city judge and upon such security as in his discretion he deems necessary or as otherwise provided by state law or by ordinance. Cash bail of persons arrested may be accepted at such times and by officials other than the city judge as provided by ordinance, but no officer shall accept cash bail unless the person arrested shall be given a receipt which shall explain the nature of the deposit. The receipt shall be in duplicate and a copy with the money deposited shall be filed with the city judge. Fines and costs may be paid by installments to be fixed and security determined as provided by ordinance.

Section D. Maintenance of docket and other court rules.

The city judge or his designee shall keep a docket. The council may, by ordinance, require such other records, fix the time for holding court, and provide such other rules and regulations for the proper functioning of the court as deemed necessary.

Section E. Rehearings.

Whenever any person convicted of the violation of an ordinance of the city shall show to the satisfaction of the city judge that new evidence of his innocence not available to him at the trial, which evidence, if true, could result in acquittal, the city judge may grant a rehearing.

Section F. City judge to be exclusive judge of law and facts.

The city judge shall be the exclusive judge of the law and facts in every case before him, and no official or employee of the city shall attempt to influence his decision except through pertinent facts presented in court.

ARTICLE XI - MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Section A. Departments, offices and agencies; transfer of powers.

If a city department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this charter or, if the charter makes no provision, as designated by the council.

Section B. Legal effect of this act.

This act is declared to be a public record, and may be read in evidence in all courts of law and equity. All ordinances and resolutions and proceedings of the council created by this charter may be proven by the seal of such corporation attested by the city recorder, and, when certified by the city recorder, shall be received in evidence in all courts and places without further approval.

All ordinances of the city which are consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

Section C. Severability.

If any article, section, subsection, paragraph, sentence, or part of this charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any other parts of this charter unless it appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this charter that each article,

section, subsection, paragraph, sentence, or part be enacted separately or independently of each other.

Section D. Gender.

Whenever, in this charter, "man, men, him, his, he" or their related pronouns may appear either as words or as parts of words, they have been used for literary purposes and are meant in their generic sense.

Section E. Construction.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers shall not be construed as limiting the general powers.

Section F. Legal process.

All legal process against the city shall be served upon the city administrator or the city attorney.

Section G. Amendments to charter.

Amendments to the city charter may be enacted by resolution according to the following procedures:

(1) Passage of the resolution by a two-thirds (2/3) majority of the council;

(2) Passage of the amendment by the General Assembly of the State of Tennessee;

(3) Publication of notice in a newspaper of general circulation that charter amendments have been proposed and that the text is available at the office of the city recorder and the public library;

(4) Public hearing conducted according to law; and

(5) Ratification by the council by a two-thirds (2/3) majority of the council or by a majority vote in a referendum.

SECTION 2.

(a) This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Red Boiling Springs or unless it is approved by a

majority of the number of qualified voters of the City of Red Boiling Springs voting in an election on the question of whether or not the act should be approved. The local legislative body, in its discretion, shall determine which of the preceding methods of local approval shall be used.

(b) If the local legislative body chooses the method of local approval that requires the vote of the legislative body, then the approval or non approval of this act shall be proclaimed by the presiding officer of the legislative body of the City of Red Boiling Springs and certified to the secretary of state.

(c) If the local legislative body chooses the method of local approval that requires a referendum, then the local legislative body shall determine whether such referendum shall be part of the next regularly scheduled election or if a special election shall be called. The ballots shall have printed on them a summary of this act and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the county election commission and certified by them to the secretary of state as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this act.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon ratification as provided in Section 2.